

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2003 Legislative Session

Legislative Day # 9

BILL NO. 2003-06

Introduced by: County Commissioners

Reservation of Land for Public Use

Date introduced: 08 / 04 / 03

Public Hearing: 08 / 26 / 03

Commissioners Action: 09 / 15 / 2003 Enact

Commissioner Votes: WC: Yes, RF: Yes, ML: Yes, DM: Yes, AS: Yes

Pass/Fail: Pass

Effective Date: 09 / 26 / 2003

Remarks: Planning and Growth Management File: SRA 01-05

NOTE: CAPITALS indicate matter added to existing text. [Brackets] indicate matter deleted from existing law. CAPITALS WITH UNDERLINE indicate matter added to the Bill since the Public Hearing. ~~Strikeouts~~ indicate matter deleted from the Bill since the Public Hearing

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2003 Legislative Session

Bill No. 2003-06

Chapter. No. 278

Introduced by: County Commissioners

Date of Introduction: August 4, 2003

BILL

1 AN ACT concerning

2 **Reservation of Land for Public Use**

3 FOR the purpose of

4
5 Providing for the reservation of land for certain public purposes as part of a subdivision of
6 lands; allowing for the exemption from property taxes on the reservation area; and, setting
7 the period of reservation and conditions of renewal; and generally relating to the
8 reservation of land for public purposes.

9
10 BY adding to:

11 Chapter 278 : Subdivision Regulations, Article VII: Roads and Sidewalks,

12 Section 83 “Reservation of Land for Right-of-Way”

13 Section 84 “Regulations of Reservation; Taxes”

14 Section 85 “ Termination of Reservation; Renewal”

15
16 **SECTION 1.** BE IT ENACTED BY THE COUNTY COMMISSIONERS OF CHARLES
17 COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as follows:

18 **Chapter 278 : Subdivision Regulations**

19 **SECTION 278-83: RESERVATION OF LAND FOR RIGHT-OF-WAY AND OTHER PUBLIC**

1 PURPOSES

2

3 A. THE PLANNING COMMISSION, WHEN REVIEWING A PRELIMINARY PLAN OR

4 FINAL PLAT, SHALL REFER TO THE COMPREHENSIVE PLAN, MASTER PLANS,

5 OR AMENDMENTS AND PARTS THEREOF, CAPITAL IMPROVEMENT PLANS

6 AND OTHER POLICY DOCUMENTS DIRECTING PUBLIC PROJECTS, TO

7 DETERMINE THE NEED FOR RESERVING FOR PUBLIC USE ANY OF THE LAND

8 INCLUDED IN THE PRELIMINARY PLAN, FINAL PLAT OR SITE PLAN.

9 RESERVATIONS MAY BE REQUIRED FOR PUBLIC PURPOSE PROJECTS,

10 INCLUDING, BUT NOT LIMITED TO:

11

12 (1) HIGHWAY, TRANSIT, OR STREET RIGHTS-OF-WAY; WHEN A CLEARLY

13 DEFINED AND PREFERRED ALIGNMENT HAS BEEN SELECTED BY THE

14 AUTHORITY HAVING JURISDICTION. IN THE CASE OF COUNTY

15 PROJECTS, THE AUTHORITY SHALL BE THE COUNTY

16 COMMISSIONERS.

17

18 (2) PUBLIC BUILDING SITES;

19

20 (3) RECREATIONAL SITES;

21

22 (4) OTHER PUBLIC PURPOSES.

23

24 B. NOTICE OF PUBLIC HEARING SHALL BE GIVEN TO THE PROPERTY OWNERS

25 AND SHALL BE ADVERTISED IN THE COUNTY NEWSPAPER OF RECORD AT

26 LEAST FOURTEEN (14) DAYS PRIOR TO THE HEARING DATE.

- 1 C. IF A DECISION IS MADE TO PLACE A PROPERTY IN RESERVATION, NOTICE
2 OF THE RESERVATION SHALL BE SENT TO THE PROPERTY OWNER(S), AND
3 TO THE GOVERNMENTAL AGENCY CONCERNED WITH THE ACQUISITION.
4
- 5 D. FINAL PLATS FOR THE PROPERTY SHALL BE IN STRICT CONFORMITY WITH
6 THE PUBLIC RESERVATION. A PORTION OF THE PROPERTY MAY BE
7 RECORDED IF THE DESIGN OF THE SUBDIVISION OR SITE IS FULLY
8 FUNCTIONAL WITHOUT THE RESERVED AREA.
9
- 10 E. THE PLANNING COMMISSION SHALL CAUSE THE APPLICANT TO PREPARE A
11 PLAT OF ANY LAND RESERVED FOR PUBLIC USE UNDER THE PROVISIONS
12 OF THIS REGULATION, SHOWING THE SURVEY LOCATION OF THE LAND,
13 NAMES AND ADDRESSES OF THE OWNERS, AND ANY OTHER INFORMATION
14 REQUIRED FOR ITS PROPER INDEXING AND FOR FILING AMONG THE LAND
15 RECORDS OF CHARLES COUNTY. THE PLAT SHALL COMPLY WITH ALL
16 REQUIREMENTS FOR RECORDING OF PLATS AMONG THE LAND RECORDS OF
17 CHARLES COUNTY, AND SHALL BE DULY RECORDED.
18
- 19 F. IF LAND DESIGNATED FOR RESERVATION IS ON PROPERTY PROPOSED FOR
20 COMMERCIAL DEVELOPMENT, THEN THAT LAND SO DESIGNATED SHALL
21 BE SHOWN ON PLANS OR PLATS AS OPEN SPACE AREA TO THE EXTENT
22 FEASIBLE AND WILL BE USED TO SATISFY THE REQUIREMENTS FOR OPEN
23 SPACE, GREEN AREA, PERVIOUS SURFACE AREA, OR LANDSCAPED BUFFER
24 FOR THAT PROJECT. IF THE PLANNING COMMISSION FINDS THAT A
25 PROPOSED COMMERCIAL DEVELOPMENT CAN NOT BE REDESIGNED TO
26 ACCOMMODATE A PROPOSED RESERVATION OF LAND AND STILL
27 PRESERVE THE ALLOWABLE INTENSITY OF DEVELOPMENT, THEN THE
28 APPLICANT MAY REQUEST APPROVAL BY THE COUNTY COMMISSIONERS
29 FOR A MODIFICATION OF THE DESIGN STANDARDS IN ORDER TO MITIGATE

1 FOR THE IMPACTS ASSOCIATED WITH THE RESERVATION OF LAND FOR
2 PUBLIC USE.
3

4 G. IF LAND DESIGNATED FOR RESERVATION IS ON PROPERTY PROPOSED FOR
5 RESIDENTIAL DEVELOPMENT, THEN, IN LIEU OF RESERVING ROAD RIGHT
6 OF WAY AS DESCRIBED ABOVE, AN APPLICANT MAY PRESERVE FOR

7 D
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- (1) LOTS MAY BE DESIGNED TO AVOID INTERFERENCE WITH THE PROPOSED PUBLIC PURPOSE PROJECT BY USING THE LOT DESIGN STANDARDS FOR A CLUSTER DEVELOPMENT SET FORTH IN ARTICLE XIV, FIGURE XIV-2 OF THE CHARLES COUNTY ZONING ORDINANCE.
- (2) LAND WILL BE PRESERVED AND DEDICATED FOR THE INTENDED PURPOSE UNTIL SUCH TIME AS THE AUTHORITY HAVING JURISDICTION ACCEPTS THE DEDICATION OR ABANDONS THE PUBLIC PURPOSE PROJECT.
- (3) NOTWITHSTANDING ARTICLE VI OF THESE REGULATIONS, OPEN SPACE OR RECREATIONAL AMENITIES MAY NOT BE REQUIRED FOR

1 THE PROJECT; HOWEVER, IF THE PUBLIC PURPOSE PROJECT IS
2 ABANDONED AND THE AUTHORITY DOES NOT ACCEPT THE
3 DEDICATION, LAND SET ASIDE FOR THE PUBLIC PURPOSE PROJECT
4 MUST BE USED FOR OPEN SPACE, ANOTHER PUBLIC PURPOSE FOR
5 THE BENEFIT OF THE RESIDENTS IN THE SUBDIVISION OR THE
6 GENERAL PUBLIC, OR A COMPATIBLE USE APPROVED BY THE
7 PLANNING COMMISSION.
8

9 H. IF THE PLANNING COMMISSION FINDS THAT A PROPOSED RESIDENTIAL
10 SUBDIVISION CAN NOT BE REDESIGNED TO ACCOMMODATE A PROPOSED
11 RESERVATION OF LAND AS PROVIDED FOR IN SECTION 278-83.G AND STILL
12 PRESERVE THE ALLOWABLE RESIDENTIAL DENSITY, THEN THE APPLICANT
13 MAY REQUEST APPROVAL BY THE COUNTY COMMISSIONERS FOR THE USE
14 OF MORE COMPACT HOUSING TYPES SUCH AS SINGLE-FAMILY ATTACHED
15 AND MULTI-FAMILY HOUSING TO SHIFT THE ALLOWABLE DWELLING UNITS
16 OUTSIDE THE PROPOSED LAND RESERVATION AREA. COUNTY
17 COMMISSIONER APPROVAL OF ALTERNATIVE DWELLING TYPES IS SUBJECT
18 TO THE FOLLOWING:
19

20 (1) SINGLE FAMILY ATTACHED OR MULTI-FAMILY DWELLING UNITS
21 SHALL COMPLY WITH THE MINIMUM STANDARDS FOR SUCH USES IN
22 THE PLANNED RESIDENTIAL DEVELOPMENT (PRD) ZONE SET FORTH
23 IN THE ZONING ORDINANCE; AND
24

25 (2) THE SITING AND ARCHITECTURAL DESIGN OF THE DWELLINGS
26 SHALL BE APPROVED BY THE CHARLES COUNTY SITE DESIGN AND
27 ARCHITECTURAL REVIEW BOARD.
28

29 SECTION 278-84: REGULATIONS OF RESERVATION; TAXES

- 1 A. NO RESERVATION SHALL CONTINUE FOR LONGER THAN THREE (3) YEARS
2 WITHOUT THE WRITTEN APPROVAL OF ALL PERSONS HAVING ANY LEGAL
3 OR EQUITABLE INTEREST IN THE PROPERTY.
4
5 B. SUCH PUBLIC RESERVATIONS SHALL NOT BE SUBJECT TO PROPERTY TAX
6 DURING THE RESERVATION PERIOD AS DESCRIBED IN ARTICLE 66B

1 SECTION 5.03. (B)(4). NOTIFICATION OF THE RESERVATION INCLUDING THE
2 PLAT SHALL BE SENT TO THE AFFECTED TAXING AND ASSESSING BODIES.
3

4 C. DURING THE RESERVATION PERIOD, NO BUILDING OR STRUCTURE SHALL
5 BE ERECTED UPON THE LAND SO RESERVED, EXCEPT AS PROVIDED IN
6 SUBSECTION (D). NO TREES, TOPSOIL, OR COVER SHALL BE REMOVED OR
7 DESTROYED, NO GRADING SHALL BE DONE, AND NO DRAINAGE
8 STRUCTURES SHALL BE BUILT SO AS TO DISCHARGE WATER ON THE
9 RESERVED LAND, EXCEPT AS PROVIDED IN SUBSECTION (D).
10

11 D. LAND SO RESERVED MAY BE USED FOR AGRICULTURAL PURPOSES AND
12 OTHER USES PERMITTED BY THE ZONING ORDINANCE UPON WRITTEN
13 APPROVAL OF THE PLANNING COMMISSION. THE PLANNING COMMISSION
14 MAY ALLOW ANY PERMITTED USE WHICH IT FINDS WILL NOT IMPAIR THE
15 EFFICIENT AND ECONOMIC USE FOR WHICH THE PROPERTY WAS
16 RESERVED.
17

18 E. ALL LAND SO RESERVED SHALL BE MAINTAINED BY THE OWNER AS
19 REQUIRED BY COUNTY LAW. THE PLANNING COMMISSION SHALL BE
20 NOTIFIED IMMEDIATELY UPON THE SALE OF ANY LAND SO RESERVED, AND
21 SHALL BE PROVIDED WITH DOCUMENTS FROM THE PUBLIC LAND RECORDS
22 ATTESTING TO SUCH SALE.
23

24 SECTION 278-85: TERMINATION OF RESERVATION; RENEWAL
25

26 A. THE EXPIRATION OF A PRELIMINARY PLAN SHALL NOT AFFECT A
27 RESERVATION IF, BEFORE THE EXPIRATION DATE, A RESERVATION PLAT
28 HAS BEEN RECORDED BY THE PLANNING COMMISSION. IF NOT RECORDED
29 THE RESERVATION SHALL BE DEEMED CANCELLED.

- 1 B. PRIOR TO THE EXPIRATION OF A RESERVATION PERIOD, WITH THE
2 WRITTEN CONSENT OF ALL AFFECTED LAND OWNERS, THE PLANNING
3 COMMISSION MAY RENEW THE RESERVATION FOR ADDITIONAL PERIODS
4 OF TIME, PROVIDED THAT THE TIME PERIOD OF THE RENEWAL SHALL BE
5 MUTUALLY AGREEABLE TO THE LAND OWNER AND THE PLANNING
6 COMMISSION.
- 7
- 8 (1) PRIOR TO THE EXPIRATION DATE, THE PLANNING COMMISSION
9 SHALL DETERMINE WHETHER THE RESERVATION SHOULD BE
10 RENEWED, AND SHALL PROVIDE AN OPPORTUNITY FOR REVIEW
11 AGENCIES TO COMMENT UPON SUCH RENEWAL.
- 12
- 13 (2) IF THE PLANNING COMMISSION DETERMINES THAT THE
14 RESERVATION SHOULD BE RENEWED, THE LAND OWNER SHALL BE
15 NOTIFIED OF SUCH DETERMINATION AND, IF THE LAND OWNER
16 DESIRES TO RENEW THE RESERVATION, THE REQUIRED
17 AUTHORIZATION FOR CONSENT TO THE RENEWAL SHALL BE
18 COMPLETED.
- 19
- 20 (3) RENEWAL OF RESERVATION SHALL BE APPROVED BY THE PLANNING
21 COMMISSION.
- 22
- 23 C. AT THE END OF THE RESERVATION PERIOD, IF THE RESERVATION HAS NOT
24 BEEN RENEWED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION
25 (B) OF THIS SECTION, OR IF THE LAND RESERVED HAS NOT BEEN ACQUIRED
26 FOR PUBLIC USE AND PROCEEDINGS FOR ACQUISITION HAVE NOT BEEN
27 INITIATED, THEN THE RESERVATION SHALL EXPIRE AND THE APPROPRIATE
28 TAXING AND ASSESSING BODIES SHALL BE NOTIFIED. INITIATION OF THE
29 ACQUISITION IS DEMONSTRATED BY THE FILING OF CONDEMNATION

1 PETITION IN THE COURTS; THE NEGOTIATION OF A CONTRACT BETWEEN
2 THE PROPERTY OWNER(S) AND THE COUNTY, OR EFFORTS TO ACHIEVE
3 OTHER APPROPRIATE AGREEMENTS TO BE APPROVED BY THE COUNTY
4 COMMISSIONERS.

5
6 D. IF, PRIOR TO THE EXPIRATION OF THE RESERVATION PERIOD, THE
7 PLANNING COMMISSION DETERMINED THAT THE RESERVATION NO
8 LONGER APPEARS NECESSARY, THEN THE PLANNING COMMISSION MAY
9 CANCEL THE RESERVATION. SUCH CANCELLATION SHALL BE BY
10 RESOLUTION OF THE PLANNING COMMISSION. CERTIFIED COPIES OF THE
11 RESOLUTION CANCELLING THE RESERVATION SHALL BE SENT TO THE
12 PROPERTY OWNER(S), THE AGENCY ORIGINALLY CONCERNED WITH THE
13 ACQUISITION, THE AFFECTED TAXING AND ASSESSING BODIES, AND THE
14 CLERK OF COURT FOR FILING AMONG THE LAND RECORDS OF CHARLES
15 COUNTY.

1
2 **SECTION 2.** BE IT FURTHER ENACTED, that this Act shall take effect TEN (10)
3 calendar days after it becomes law.
4

5 COUNTY COMMISSIONERS OF
6 CHARLES COUNTY, MARYLAND
7

8 _____
9 Murray D. Levy, President
10

11 _____
12 Wayne Cooper
13

14 _____
15 Robert J. Fuller
16

17 _____
18 Wm. Daniel Mayer
19

20 _____
21 Allan R. Smith